

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: DONALD COHEE AND SHARON COHEE**

**(Case No. 11311)**

A hearing was held after due notice on January 6, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard.

Nature of the Proceedings

This is an application for a variance from the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of five (5) feet from the required ten (10) feet side yard setback requirement for a proposed detached garage. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located southerly corner of Road 312 (River Road) and Point View Road near Oak Orchard and north of Indian River Bay; said property being identified as Sussex County Tax Map Parcel Number 2-34-34.10-77.00. After a hearing, the Board made the following findings of fact:

1. Pam McDonald was sworn in to testify on behalf of the Application.
2. The Board found that Ms. McDonald testified that the Applicants intend to demolish their current garage, which is over thirty (30) years old, and replace the garage with a new detached garage.
3. The Board found that Ms. McDonald testified that existing garage impedes on the side and rear yard setback requirements.
4. The Board found that Ms. McDonald testified that the lot is very unique as it is a combined lot of 2.5 lots.
5. The Board found that Ms. McDonald testified that the existing boat ramp and semi-circular driveway do not allow the proposed garage to be built elsewhere on the Property.
6. The Board found that Ms. McDonald testified that the proposed detached garage will measure twenty-four (24) feet by thirty (30) feet, will be constructed like a pole building, and will match the existing dwelling.
7. The Board found that Ms. McDonald testified that there is an existing sewer cleanout line that exists on the Property as well and would be very costly to relocate the cleanout line.
8. The Board found that Ms. McDonald testified that the location of the cleanout line limits the placement options of the garage.
9. The Board found that Ms. McDonald testified that the neighbors support the Application.
10. The Board found that Ms. McDonald testified that the requested front yard variances are not needed because the front yard of the Property is along the shoreline and the rear yard of the Property is along River Road.
11. The Board found that Ms. McDonald testified that the proposed garage will meet the rear yard setback requirements.
12. The Board found that Ms. McDonald testified that the front yard and rear yard setback requirements were determined by the Planning and Zoning Commission.
13. The Board found that Ms. McDonald testified that the proposed garage will meet the rear and side yard setback requirements.
14. The Board found that Ms. McDonald testified that the variance will enable reasonable use of the Property and that the Applicants require more storage, which is the reason they seek a larger garage.

15. The Board found that Ms. McDonald testified that the Applicants cannot place the garage on the other side of the Property as it would affect access to the house.
16. The Board found that Ms. McDonald testified that the existing garage encroaches into the setback areas and was placed there prior to the Applicants assuming ownership of the Property.
17. The Board found that Ms. McDonald testified that the garage will not alter the character of the neighborhood.
18. The Board found that Ms. McDonald testified that the neighboring property has a garage which impedes the setback requirements as well.
19. The Board found that Ms. McDonald testified that the difficulty has not been created by the Applicants.
20. The Board found that Ms. McDonald testified that the garage will not impair the uses of neighboring properties.
21. The Board found that Ms. McDonald testified that the variance is the least modification of the regulation at issue and that the variance requested is the minimum variance to afford relief.
22. The Board found that the waterside of the Property is the front of the Property and the side of the Property along River Road is the rear of the Property.
23. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application.
24. The Board found that no parties appeared in support of or in opposition to the Application.
25. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique. The variance is necessary to enable reasonable use of the Property. The existing garage is small and the Applicants need more space. The difficulty was not created by the Applicants. The Applicants did not create the lot or locate the sewer cleanout line. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief.

The Board approved the variance application finding that it met the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the Application was approved. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. No Member voted against the Motion to Approve the Application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date February 18, 2014